

PSJ15 Exh 44

IN RE: NATIONAL)
4 PRESCRIPTION) MDL No. 2804
OPIATE LITIGATION)
5 _____) Case No.
) 1:17-MD-2804
6)
THIS DOCUMENT RELATES) Hon. Dan A.
7 TO ALL CASES) Polster

FRIDAY, JUNE 28, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

19

20

21

22

23

24

25

GOLKOW LITIGATION SERVICES

877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

1 A P P E A R A N C E S :
2
3 KELLER ROHRBACK LLP
4 BY: DEREK W. LOESER
5 dloeser@kellerrohrback.com
6 DAVID J. KO
7 dko@kellerrohrback.com
8 DEAN KAWAMOTO
9 dkawamoto@kellerrohrback.com
10 1201 Third Avenue, Suite 3200
11 Seattle, Washington 98101
12 (206) 623-1900
13
14 SIMMONS HANLY CONROY LLC
15 BY: JAYNE CONROY
16 jconroy@simmonsfirm.com
17 LAURA FITZPATRICK
18 lfitzpatrick@simmonsfirm.com
19 (VIA REALTIME STREAM)
20 SANFORD SMOKLER
21 (VIA REALTIME STREAM)
22 112 Madison Avenue, Seventh Floor
23 New York, New York 10016
24 (212) 784-6400
25
26 WEISMAN KENNEDY & BERRIS CO., L.P.
27 BY: DANIEL P. GOETZ
28 dgoetz@weismanlaw.com
29 (VIA REALTIME STREAM)
30 101 West Prospect Avenue
31 Cleveland, Ohio 44115
32 (216) 781-1111
33 Counsel for Plaintiffs
34
35 NAPOLI SHKOLNIK, PLLC
36 BY: HUNTER J. SHKOLNIK
37 hunter@napolilaw.com
38 (VIA TELECONFERENCE)
39 360 Lexington Avenue, 11th Floor
40 New York, New York 10017
41 (212) 397-1000
42 Counsel for Cuyahoga County
43
44

1 ROPES & GRAY LLP
2 BY: WILLIAM DAVISON
3 william.davison@ropesgray.com
4 ANDREW O'CONNOR
5 andrew.o'connor@ropesgray.com
6 CASSANDRA A. LARUSSA
7 cassandra.larussa@ropesgray.com
8 800 Boylston Street
9 Boston, Massachusetts 02199-3600
10 (617) 951-7000
11 Counsel for Mallinckrodt & SpecGx
12
13 WILLIAMS & CONNOLLY LLP
14 BY: JENNIFER G. WICHT
15 jwicht@wc.com
16 725 Twelfth Street, N.W.
17 Washington, DC 20005
18 (202) 434-5331
19 Counsel for Cardinal Health, Inc.
20
21 DECHERT LLP
22 BY: ERIK W. SNAPP
23 erik.sapp@dechert.com
24 35 West Wacker Drive, Suite 3400
25 Chicago, Illinois 60601
15 (312) 646-5800
16 Counsel for Purdue Pharma
17
18 ZUCKERMAN SPAEDER LLP
19 BY: PAUL B. HYNES, JR.
20 phynes@zuckerman.com
21 1800 M Street NW, Suite 1000
22 Washington, DC 20036-5807
23 (202) 778-1800
24 Counsel for CVS Indiana, LLC, and
25 CVS RX Services, Inc.
26
27 MARCUS & SHAPIRA LLP
28 BY: DARLENE M. NOWAK
29 nowak@Marcus-Shapira.com
30 301 Grant Street, 35th Floor
31 Pittsburgh, Pennsylvania 15219-6401
32 (412) 338-4690
33 Counsel for HBC

1 KIRKLAND & ELLIS LLP
2 BY: CATIE VENTURA
3 catie.ventura@kirkland.com
4 1301 Pennsylvania Avenue, N.W.
5 Washington, DC 20004
6 (202) 389-5000
7 Counsel for Allergan Finance, LLC
8
9 O'MELVENY & MYERS LLP
10 BY: ZHAO LIU
11 zliu@omm.com
12 1625 Eye Street, NW
13 Washington, DC 20006
14 (202) 383-5300
15 Counsel for Johnson & Johnson and
16 Janssen
17
18 LOCKE LORD LLP
19 BY: BRANDAN MONTMINY
20 brandan.montminy@lockelord.com
21 2200 Ross Avenue, Suite 2800
22 Dallas, Texas 75201
23 (214) 740-8445
24 Counsel for Henry Schein, Inc., and
25 Henry Schein Medical Systems, Inc.
26
27 JONES DAY
28 BY: TARA A. FUMERTON
29 tfumerton@jonesday.com
30 (VIA TELECONFERENCE)
31 77 West Wacker
32 Chicago, Illinois 60601-1692
33 (312) 782-3939
34 Counsel for Walmart
35
36 COVINGTON & BURLING LLP
37 BY: ALISON DICURCIO
38 (VIA TELECONFERENCE)
39 ALEXANDRIA WIDAS
40 awidas@cov.com
41 (VIA REALTIME STREAM)
42 850 Tenth Street, NW
43 Washington, DC 20001-4956
44 (202) 662-6000
45 Counsel for McKesson Corporation

1 MORGAN, LEWIS & BOCKIUS LLP
2 BY: MAUREEN K. BARBER
3 maureen.barber@morganlewis.com
4 (VIA TELECONFERENCE)
5 One Oxford Centre, 32nd Floor
6 Pittsburgh, Pennsylvania 15219-6401
7 (412) 560-7463
8 Counsel for Teva Pharmaceuticals
9 USA, Inc., Cephalon, Inc., Watson
10 Laboratories, Inc., Actavis LLC,
11 Actavis Pharma, Inc., f/k/a Watson
12 Pharma, Inc.

13 MORGAN, LEWIS & BOCKIUS LLP
14 BY: JOHN P. LAVELLE, JR.
15 john.lavelle@morganlewis.com
16 (VIA TELECONFERENCE)
17 1701 Market Street
18 Philadelphia, Pennsylvania 19103-2921
19 (215) 963-5000
20 Counsel for Rite Aid

21 FOLEY & LARDNER LLP
22 BY: GREGORY N. HEINEN
23 gheinen@foley.com
24 (VIA TELECONFERENCE)
25 777 East Wisconsin Avenue
26 Milwaukee, WI 53202-5306
27 (414) 271-2400
28 Counsel for Anda

29 FOX ROTHSCHILD LLP
30 BY: ZACHARY MARTIN
31 Zmartin@foxrothschild.com
32 (VIA TELECONFERENCE)
33 2700 Kelly Road, Suite 300
34 Warrington, Pennsylvania 18976-3624
35 (215) 345-7500
36 Counsel for Prescription Supply, Inc.

1 BARNES & THORNBURG LLP
2 BY: ALYSSA C. HUGHES
3 ahughes@btlaw.com
4 (VIA TELECONFERENCE)
5 11 South Meridian Street
6 Indianapolis, Indiana 46204-3535
7 (317) 236-1313
8 Counsel for HD Smith
9
10 BAILEY WYANT PLLC
11 BY: JOHN FULLER
12 jfuller@baileyywanton.com
13 (VIA REALTIME STREAM)
14 500 Virginia Street East, Suite 600
15 Charleston, West Virginia 25301
16 (304) 345-4222
17 Counsel for West Virginia Board of
18 Pharmacy
19
20 VIDEOGRAPHER:
21 DEVYN MULHOLLAND,
22 Golkow Litigation Services
23
24 - - -
25

1 and I think your words were that you wouldn't
2 touch diverters.

3 Do you recall that testimony?

4 A. I mentioned something to that
5 effect, that we would turn down, to my
6 knowledge, customers that would --
7 registrants that were involved in what we
8 felt was the illicit market. And I'm going
9 back a long time.

10 Q. Yeah. And, sir, how do you
11 define the legitimate industry?

12 A. They meet the DEA requirements
13 for registration.

14 Q. And what do you mean by
15 "diverters"?

16 A. Is when drugs or controlled
17 substances departs or leaks out or however,
18 what terms you want to use, from the
19 distribution chain in an illicit manner.

20 Q. So if a pharmacy provides
21 controlled substances for other than
22 legitimate medical purposes, is that a
23 pharmacy a diverter?

24 MR. DAVISON: Objection.

25 THE WITNESS: Yes. If --

1 anybody who diverts, let's say,
2 controlled substances for illicit
3 purposes would be a diverter -- would
4 be, you know, involved in diversion,
5 let's say.

6 QUESTIONS BY MR. LOESER:

7 Q. So a pain clinic that provides
8 prescriptions for other than legitimate
9 medical purposes, that would be a diverter
10 too?

11 A. Pain clinics -- pain clinics
12 were an issue that DEA looked at very
13 carefully, to my knowledge.

14 I inspected some of them for a
15 member of the industry, and some of them are
16 probably very honest, but there are a number
17 of them that were basically selling drugs.

18 Q. And you say you inspected some
19 pain clinics for a member of industry.

20 Who did you inspect pain
21 clinics on behalf of?

22 MR. DAVISON: Objection.

23 THE WITNESS: I don't recall
24 who it was. I just remember us doing
25 it. That was many years ago, when I